Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/553,240	KATO ET AL.	
Examiner	Art Unit	
Daniel S. Metzmaier	1796	

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The MAILING DATE of this communication appea	rs on the cover sheet with the	correspondence addi	ess	
THE REPLY FILED 16 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.				
1. The reply was filed after a final rejection, but prior to or on the application, applicant must timely file one of the following reapplication in condition for allowance; (2) a Notice of Appear for Continued Examination (RCE) in compliance with 37 CF periods:	plies: (1) an amendment, affida Il (with appeal fee) in compliance	vit, or other evidence, we with 37 CFR 41.31; or	hich places the (3) a Request	
a) The period for reply expires <u>3</u> months from the mailing date o	f the final rejection.			
b) The period for reply expires on: (1) the mailing date of this Adno event, however, will the statutory period for reply expire late Examiner Note: If box 1 is checked, check either box (a) or (b) MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).	er than SIX MONTHS from the maili n. ONLY CHECK BOX (b) WHEN TH	ng date of the final rejectio IE FIRST REPLY WAS FIL	n. .ED WITHIN TWO	
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL				
2. The Notice of Appeal was filed on A brief in compliant filing the Notice of Appeal (37 CFR 41.37(a)), or any extens Notice of Appeal has been filed, any reply must be filed with	ion thereof (37 CFR 41.37(e)), t	o avoid dismissal of the		
AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because				
(a) ☐ They raise new issues that would require further cons (b) ☐ They raise the issue of new matter (see NOTE below (c) ☐ They are not deemed to place the application in bette	ideration and/or search (see N0);	OTE below);		
appeal; and/or				
(d) They present additional claims without canceling a co		jected claims.		
NOTE: <u>See Continuation Sheet</u> . (See 37 CFR 1.110		l' t	OTOL 204)	
4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s): See Continuation Sheet.				
5. Applicant's reply has overcome the following rejection(s): <u>See Continuation Sheet.</u> 6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the				
non-allowable claim(s).				
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed:				
Claim(s) objected to:				
Claim(s) rejected: <u>9,10 and 12</u> . Claim(s) withdrawn from consideration: <u>1-8 and 14-31</u> . AFFIDAVIT OR OTHER EVIDENCE				
8. The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good and was not earlier presented. See 37 CFR 1.116(e).				
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).				
10. The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER	of the status of the claims after	entry is below or attache	ed.	
11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:				
12. Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s) 13. Other:				
Encl.: Examiner-Initiated Interview Summary (PTOL-413E	/Daniel S. Metzmaier/ Primary Examiner, Art	Unit 1796		

Continuation of 3. NOTE: the amendment does not obviate the rejection and presents additional issues regarding the clarity of the electric conductivity limitation in claim 9.

Continuation of 5. Applicant's reply has overcome the following rejection(s): the Terminal Disclaimer obviates the judicially created doctrine of provisionally rejection on the ground of nonstatutory obviousness-type double patenting, which was set forth in the Final Rejection.